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10/597,956	05/01/2007	Thorsten Lohmar	P19248-US1	8416
27045	7590	04/28/2011	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			RECEK, JASON D	
			ART UNIT	PAPER NUMBER
			2442	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/597,956	Applicant(s) LOHMAR ET AL.	
	Examiner JASON RECEK	Art Unit 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to the amendment filed on February 10th 2011.

Status of Claims

Claims 1-16 and 22-27 are pending.

Response to Arguments

1. Applicant's arguments filed 2/10/11 have been fully considered but they are not persuasive. Applicant's arguments regarding Tatsumi (pg. 7-8) are not entirely clear. Applicant asserts (pg. 7) that Tatsumi does not teach a bidirectional path between the clients and the proxy servers. Examiner acknowledges this and agrees that Tatsumi does not teach proxy servers, Byers is relied upon for teaching the plurality of intermediate proxy servers as explained in the detailed rejection below. Therefore, the argument that Tatsumi does not teach proxy servers is not sufficient, even if persuasive, to overcome the rejection.

Continuing with Tatsumi, applicant concludes (pg. 8) that it does not disclose a non-bidirectional pathway (it is assumed applicant is referring to the downlink-only path recited by claim 1). This portion of the argument is unclear, applicant previously asserted (response dated 7/26/10 page 8) that "the applicant does not disagree with the disclosure by Tatsumi of a broadcasting path and a bi-direction path". It is respectfully

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submitted the broadcasting path taught by Tatsumi (Fig. 1, item 121) and previously acknowledged by applicant is equivalent to the downlink-only path recited by claim 1.

Therefore, applicant's present assertion that Tatsumi does not teach this is not persuasive.

Turning to Byers (pg. 8-9), applicant asserts that although Byers teaches a plurality of proxy servers, it does not disclose "determining, by the plurality of clients" a plurality of proxy servers. This is not persuasive. Byers explicitly discloses that the proxy server selection process outlined by applicant (pg. 8) is performed by the client (paragraph 43, Fig. 3). Thus applicant's assertion that the "determining" is not done by the client is a mischaracterization of the reference. Applicant's reference to the detailed description (paragraph 36) is noted. Applicant is no doubt aware that limitations from the specification are not read into the claims. However, even if these limitations were incorporated, applicant is advised that Byers also teaches preparing a list of proxy servers (paragraph 41).

With regard to claim 6, applicant asserts Hudson does not cure the deficiencies of Tatsumi (pg. 9). This is not persuasive to overcome the rejection since the arguments directed towards Tatsumi were not persuasive.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-5, 7-16 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsumi et al. US 2002/0095636 A1 in view of Byers US 2009/0248843 A1.

Regarding claim 1, Tatsumi discloses “the broadcaster transmitting the content data simultaneously to the plurality of clients via an unreliable downlink-only communications pathway” as broadcasting data through a broadcasting path (downlink-only) which is not error-free (paragraph 19, Fig. 1 item 121) and “coupling the plurality of clients to a proxy server to initiate post-processing transactions” clients contain functionality for post processing transactions such as retransmission request (Fig. 1, paragraphs 19-22), “the broadcaster communicating with the proxy server to provide sufficient information to handle any of the port-processing transactions requested” retransmission is a post-processing transaction (Fig. 6, paragraphs 20-21), “determining ... available proxy servers” and “contacting ... the selected proxy server” as selecting a path (paragraph 26).

Tatsumi does not explicitly disclose a “the plurality of clients is different from the plurality of proxy servers” however this is taught by Byers as a plurality of proxy servers that are separate from the client (Fig. 3). Proxy servers are well known in the art and

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yield predictable results (as evidenced by Byers). Thus this is merely the combination of known elements according to their established function in order to yield a predictable result.

Tatsumi also does not explicitly disclose “randomly selecting, by each of the plurality of clients, one of the plurality of available proxy servers” however this is taught by Byers as randomly selecting a proxy server from a proxy server list (paragraph 38). Byers also discloses the “determining” is performed by the clients (paragraph 43, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tatsumi with the random selection feature taught by Byers for the purpose of choosing a proxy server from a plurality of proxy servers. Random selection is one type of load balancing scheme. Byers teaches that by randomly selecting proxy servers a large number of requests may be processed in parallel (paragraph 7).

Regarding claim 2, Tatsumi discloses “contact intervals ... specifying the time period in which the proxy servers may be contacted” as specifying a retransmission waiting time (paragraphs 121-124).

Regarding claim 3, Tatsumi discloses “sending ... information pertaining to content data that has or has not been correctly received” (paragraph 117).

Regarding claim 4, Tatsumi discloses “sending ... information to reconstruct the content data” (paragraphs 157-158).

Regarding claim 5, Tatsumi discloses “sending ... a notification that the content data was either successfully or unsuccessfully received” (paragraph 118).

Regarding claim 7, Tatsumi discloses “prompts within the content data” (paragraph 114).

Regarding claim 8, Tatsumi discloses “purchase of an object or service” (paragraph 114).

Regarding claim 9, Tatsumi discloses “a request to obtain additional content data” (paragraph 97).

Regarding claim 10, Tatsumi discloses “a URL within ... the data” (paragraph 65).

Regarding claim 11, Tatsumi does not explicitly disclose “providing, by the broadcaster to each of the proxy servers, at least a portion of the content data” however this is suggested by Tatsumi as transferring data to the retransmitting (proxy server) for the purpose of retransmitting (paragraph 157). Byers also teaches this as providing data from the web server (i.e. broadcaster) to the proxy server (Fig. 3).

Regarding claim 12, Tatsumi discloses "information ... is in embedded in the broadcast" (paragraph 64).

Regarding claim 13, Tatsumi discloses "contact intervals ... is embedded in the broadcast" as a receiving end time which indicates the beginning of a contact interval (paragraph 65).

Regarding claim 14, Tatsumi discloses "selection based on an attribute of the plurality of clients" (paragraph 98).

Regarding claim 15, Tatsumi discloses "multicast" (paragraph 68).

Regarding claim 16, Tatsumi does not explicitly disclose "adjusting the number of available proxy servers ... based on the number of post-processing transactions" however it is well known in the art to adjust resources based on usage requirements and thus the modification of Tatsumi to adjust the number of retransmitting stations (proxy servers) based on demand is merely applying that which is well known in the art in order to yield a predictable result (system capability to handle required load).

Regarding claims 22, and 25, they are apparatus claims that correspond to the method of claim 1, therefore they are rejected for similar reasons.

Regarding claim 23, it corresponds to the method of claim 2, therefore it is rejected for similar reasons.

Regarding claim 24, Tatsumi discloses “determines one or more post-processing transactions” as setting a retransmission request permission (paragraph 64).

Regarding claim 26, it corresponds to claim 1 (i.e. determining, selecting, contacting), since those functions are performed by the client. Therefore, the corresponding parts are rejected for similar reasons. Tatsumi also discloses “a reception unit for receiving broadcasted content” (Fig. 6).

Regarding claim 27, Tatsumi discloses “specifying the time period in which the proxy servers may be contacted after the broadcast” start time and end time (paragraph 64), “contact unit for contacting the selected proxy server contacts the selected proxy server to initiate post-processing at the specified time period” contact selection unit for retransmission (i.e. post-processing) at time specified (paragraphs 26, 98), and “selection unit for randomly selecting the delay time” set retransmission waiting time (Fig. 12).

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsumi and Byers in view of Hudson et al. US 2003/0204613 A1.

Regarding claim 6, the combination of Tatsumi and Byers does not explicitly disclose “a digital rights manager” however this is taught by Hudson (paragraph 70). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tatsumi with the DRM taught by Hudson for the purpose of distributing content. A DRM is well known in the art and yields predictable results (as evidenced by Hudson). Thus the combination is merely the combination of known elements according to their established function in order to yields a predictable result.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Aldridge et al. US 2004/0030982 A1 discloses identifying batches of data for the purpose of correcting errors during broadcast transmission (paragraph 84).

Buddhikot et al. US 2002/0007392 A1 discloses random proxy server selection (paragraph 32).

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON RECEK whose telephone number is (571)270-1975. The examiner can normally be reached on Mon - Fri 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason Recek/

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(571) 270-1975

/Faruk Hamza/

Primary Examiner, Art Unit 2442